

INITIAL DECISION RELEASE NO. 339
ADMINISTRATIVE PROCEEDING
FILE NO. 3-12653

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

In the Matter of	:	
	:	CORRECTED
	:	INITIAL DECISION
CHRIS G. GUNDERSON, ESQ.	:	December 20, 2007
	:	
	:	

APPEARANCES: Karen J. Shimp for the Office of General Counsel, Securities and Exchange Commission

Lawrence A. Garvey of Cushner & Garvey, L.L.P., for Respondent
Chris G. Gunderson, Esq.

BEFORE: Robert G. Mahony, Administrative Law Judge

On June 6, 2007, the Securities and Exchange Commission (Commission) instituted this proceeding against Chris G. Gunderson, Esq. (Gunderson), by issuing an Order Instituting Public Administrative Proceedings and Imposing Temporary Suspension Pursuant to Rule 102(e)(3) of the Commission's Rules of Practice (OIP). The Commission found that a permanent injunction had been entered against Gunderson by the United States District Court for the Southern District of New York in SEC v. Universal Express, Inc., et al., 475 F. Supp. 2d 412 (2007) (Civil Case). A final judgment was issued in the Civil Case permanently enjoining Gunderson from violating, directly or indirectly, Sections 5 and 17(a) of the Securities Act of 1933 (Securities Act) and Section 10(b) and Rule 10b-5 thereunder of the Securities Exchange Act of 1934 (Exchange Act), and was based upon the court's findings and conclusions that Gunderson had violated certain provisions of the federal securities laws. (OIP at 2.) The Commission believed it necessary and in the public interest to temporarily suspend Gunderson from appearing or practicing before the Commission. (Id.)¹

¹ The Commission moved for civil contempt proceedings against Gunderson alleging he participated in Universal Express, Inc.'s (USXP), issuance of an additional 21 billion unregistered shares in 2007 in violation of the permanent injunction entered against Gunderson in the Civil Case. (Plaintiff's Motion for Entry of Civil Contempt Against Defendants Universal

Gunderson filed a Petition to Lift Temporary Suspension and Demand for Evidentiary Hearing and All Discovery Provided for in Administrative Proceedings Before the Commission, and Otherwise Pursuant to Law on August 13, 2007, and the Office of General Counsel (OGC) filed its response in opposition to Gunderson's motion on August 20, 2007. On September 12, 2007, the Commission issued its Order Denying Motion to Lift Temporary Suspension and Directing Hearing. At an October 1, 2007, prehearing conference, OGC requested leave to file a motion for summary disposition. Leave was granted, pursuant to 17 C.F.R. § 201.250(a).

OGC filed its Motion for Summary Disposition and For an Order Permanently Disqualifying Gunderson From Appearing and Practicing Before the Commission, Including Statement of Points and Authorities (Motion), on October 31, 2007.² Gunderson filed his Brief in Further Support of Respondent's Petition to Lift Temporary Suspension and narrative with three exhibits on December 7, 2007 (Response).³ OGC filed its Reply in Support of Motion for Summary Disposition and For an Order Permanently Disqualifying Gunderson From Appearing and Practicing Before the Commission on December 13, 2007 (Reply).

Express, Inc., Richard A. Altomare, and Chris G. Gunderson, June 29, 2007, at 1-2.) A hearing on the motion is currently scheduled for January 11, 2008.

² The Motion has eleven exhibits: Exhibit 1 is the Complaint, dated March 24, 2004, the Commission filed in the Civil Case; Exhibit 2 is the Temporary Restraining Order issued in the Civil Case on March 24, 2004; Exhibit 3 is an Order Extending TRO issued in the Civil Case on April 19, 2004; Exhibit 4 is the Memorandum of Law of Defendants Universal Express, Inc., Richard A. Altomare and Chris G. Gunderson in Opposition to Plaintiff's Motion for Summary Judgment filed on November 13, 2006, in the Civil Case; Exhibit 5 is Gunderson's August 18, 2006, Declaration of Chris Gunderson filed in the Civil Case (excluding exhibits); Exhibit 6 is Gunderson's Supplemental Declaration of Chris Gunderson in Further Support of USXP, Richard A. Altomare and Chris G. Gunderson's Motion for Partial Summary Judgment and in Opposition to Security (sic) and Exchange Commission's Motion for Partial Summary Judgment, filed in the Civil Case on November 13, 2006; Exhibit 7 is the February 21, 2007, Opinion and Order in the Civil Case granting the Commission's Motion for Partial Summary Judgment (see also SEC v. Universal Express, Inc., et al., 475 F. Supp. 2d 412 (S.D.N.Y. 2007)); Exhibit 8 is the Final Judgment Against Universal Express, Inc., Richard A. Altomare and Chris G. Gunderson, issued on March 8, 2007, in the Civil Case; Exhibit 9 is Plaintiff's Motion for Entry of Civil Contempt Against Defendants Universal Express, Inc., Richard A. Altomare, and Chris G. Gunderson filed on June 29, 2007, in the Civil Case; Exhibit 10 is the August 30, 2007, Order and Opinion issued in the Civil Case granting the Commission's motion to appoint a receiver; and Exhibit 11 contains press releases issued by Universal Express, Inc., from June 25, 2007, to August 30, 2007. Motion Exhibits 1-11 are admitted into evidence.

³ Exhibit A is a collection of articles discussing naked short selling, and Exhibit B is a collection of sample press releases on naked short selling issued by USXP's President and Gunderson. Response Exhibits A and B are irrelevant to this proceeding and are not admitted into evidence. Gunderson's request for an evidentiary hearing in Exhibit C is moot based upon the instant proceeding, pursuant to Rule 250 of the Commission's Rules of Practice.

